

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

BOARD OF SUPERVISORS OF LOUISIANA
STATE UNIVERSITY AND
AGRICULTURAL AND MECHANICAL
COLLEGE,

Plaintiff,

v.

THE PARTNERSHIPS and
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE "A,"

Defendants.

Case No. 22-cv-07099

Judge Joan B. Gottschall

Magistrate Judge Maria Valdez

PLAINTIFF'S RESPONSE REGARDING NON-PARTY EBAY INC.'S OBJECTIONS

Plaintiff Board of Supervisors of Louisiana State University and Agricultural and Mechanical College ("Plaintiff") files the following response regarding Non-Party eBay Inc.'s ("eBay") Objections to the proposed Temporary Restraining Order (TRO). [26]. ContextLogic Inc. indicated that it does not object to entry of the Temporary Restraining Order sought by Plaintiff. [25].

Contrary to the assertions in eBay's Objections, Plaintiff is not seeking a finding that eBay is in active concert or participation with the Defendant because this Court has the authority to order eBay to restrain funds in Defendant's account without such a finding. *See United States v. Mercy Reg'l Health Sys.*, 2008 U.S. Dist. LEXIS 19362, at *11 (S.D. Ill Mar. 13, 2008) ("However, it is clearly within the Court's power to restrain Defendants' brokers, employees, and agents. Of course, it would be improvident for a financial institution to permit a restrained defendant from accessing accounts it holds in his/their name"). eBay's contractual relationship

with the Defendant (to provide a functioning e-commerce platform, collect and distribute payments, etc.) makes it an agent of Defendant for the purposes of Fed. R. Civ. P. 65. *Kawada Co., Ltd. v. The Individuals, et al.*, No. 19-cv-6838 (N.D. Ill. December 18, 2019) (Docket No. 65) (denying objection to the scope of a similar proposed injunction by a third party provider). eBay confirms that it is providing services for Defendant. [26] at p. 6. eBay has not provided any evidence or other basis for its concern that the temporary asset restraint being requested by Plaintiff is not proportional to Defendant's sales of counterfeit products. The proposed TRO does not seek to block all of Defendant's sales, and Defendant can continue to operate and sell non-infringing products while this case is pending.

However, eBay represents that that one (1) eBay seller in this case has a low amount of gross merchandise value (GMV) relating to Plaintiff. Declaration of Larry Taylor [27] at ¶ 30. To facilitate entry of the TRO, Plaintiff is filing an Amended Complaint as a matter of course pursuant to Fed. R. Civ. P. 15(a)(1) to remove the single eBay seller from the case. Plaintiff is also submitting a revised proposed Temporary Restraining Order with the revised Schedule A without any eBay stores. There are no other changes to the proposed TRO. As there are no remaining objections, Plaintiff respectfully requests that the Court enter Plaintiff's revised proposed Temporary Restraining Order. *See Luke Combs v. The Partnerships, et al.*, No. 22-cv-05251 (N.D. Ill. Oct. 14, 2022) (Docket Entry No. 31) (overruling eBay's objections as moot and entering Temporary Restraining Order); *NBA Props., Inc. v. The Partnerships, et al.*, No. 21-cv-05520 (N.D. Ill. December 3, 2021) (Docket Entry Nos. 46. 47) (entering Temporary Restraining Order after remaining non-parties did not file objections).

Dated this 9th day of January 2023.

Respectfully submitted,

/s/ Justin R. Gaudio

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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of January 2023, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system. The CM/ECF system will send a “Notice of Electronic Filing” to the attorneys of record in this case.

/s/ Justin R. Gaudio
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